

## INSTRUCTIONS AND FORMS FOR DIVORCE COMPLAINT WITH CHILDREN

These forms are related to specific South Dakota Codified Laws (SDCL) concerning divorce matters. You can find these laws on the South Dakota Legislature website. If you have any legal questions, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help Line at 1-855-784-0004 or email UJS staff at [ujssrlhelp@uj.s.state.sd.us](mailto:ujssrlhelp@uj.s.state.sd.us).

### **To Complete this form, you will need to:**

- ☐ Complete the caption of the Complaint.
  - ☐ County (insert county name).
  - ☐ Judicial Circuit (insert circuit number). You may find your judicial circuit number at the following web address.
    - [https://uj.s.sd.gov/Circuit\\_Court/Default.aspx](https://uj.s.sd.gov/Circuit_Court/Default.aspx)
  - ☐ Plaintiff (insert your name).
  - ☐ Defendant (insert spouses name).
  - ☐ Case Number will be provided to you by the Clerk of Court at the time of filing.
- ☐ Complete the remainder of the information on the lines provided throughout the form. Please note for Number 9, irreconcilable differences is the most common reason cited for divorces. You are welcome to select an alternative option in addition to irreconcilable differences but are not required to do so.
- ☐ Date and sign the form once you are in front of a notary or the Clerk of Court.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL CIRCUIT

<div>_____</div> <div>Plaintiff</div> <div>v.</div> <div>_____</div> <div>Defendant</div>	<div>Case No.: _____</div> <div><b>COMPLAINT</b> <b>(WITH MINOR CHILDREN)</b></div>
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1. Plaintiff's full legal name is \_\_\_\_\_, and their date of birth is \_\_\_\_\_.
2. Plaintiff is a resident of \_\_\_\_\_ County, State of \_\_\_\_\_.
3. Defendant's full legal name is \_\_\_\_\_, and their date of birth is \_\_\_\_\_.
4. Defendant is a resident of \_\_\_\_\_ County, State of \_\_\_\_\_.
5. Plaintiff and Defendant were married on the \_\_\_\_\_ day in the month of \_\_\_\_\_, in the year of \_\_\_\_\_, in the City of \_\_\_\_\_ and in the State of \_\_\_\_\_.
6. Are the parties currently living apart? **(check one)**  
Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, what date did the parties begin to do so? \_\_\_\_\_ **(date)**

7. Is the Plaintiff an active-duty member of the armed forces? **(check one)**

Yes \_\_\_\_\_ No \_\_\_\_\_

8. Is the Defendant an active-duty member of the armed forces? **(check one)**

Yes \_\_\_\_\_ No \_\_\_\_\_

9. Irreconcilable differences have arisen between the Plaintiff and Defendant which necessitates the dissolution of the marriage. Alternatively, further grounds for dissolution of marriage exist under SDCL § 25-4-2, if the parties do not agree to the grounds selected below, a hearing will be required, and you will need to provide proof to support the grounds claimed: **(check one or more)**

- (1) Adultery \_\_\_\_\_
- (2) Extreme Cruelty \_\_\_\_\_
- (3) Willful Desertion \_\_\_\_\_
- (4) Willful Neglect \_\_\_\_\_
- (5) Habitual Intemperance \_\_\_\_\_
- (6) Conviction of Felony \_\_\_\_\_
- (7) Irreconcilable Differences \_\_\_\_\_

10. We have \_\_\_\_\_ minor child(ren) which have been born to or adopted by the parties. **Plaintiff / Defendant (circle one) is / is not (circle one)** pregnant. If one spouse is pregnant, her due date is \_\_\_\_\_.

11. The minor children's names and dates of birth are listed below:

Name:	Date of Birth:

12. During the past five years, the children have lived with the following persons at the times and places indicated below:

Child Name:	Lived With:	County/State:	Timeframe:

13. There has / has not **(circle one)** been any prior court proceedings regarding custody of the minor child(ren).

If so, that action took place in \_\_\_\_\_ County, in the State of \_\_\_\_\_ in the year of \_\_\_\_\_.

*(Attach any existing orders regarding custody of the minor child(ren))*

14. Other than the parties, no one has ever had legal custody of the minor child(ren) except \_\_\_\_\_ (if not applicable, write "none").

*(Attach any existing orders regarding custody of the minor child(ren))*

15. Regarding custody of the minor child(ren), Plaintiff alleges: **(check one)**

☐ Both parties are fit and proper parents to share joint legal custody of the minor child(ren), with the **Plaintiff / Defendant (circle one)** having primary physical custody, subject to reasonable visitation rights with **Plaintiff / Defendant (circle one)**;

☐ **Plaintiff / Defendant (circle one)** is the fit and proper persons to have sole legal and physical custody of the minor child(ren), subject to visitation with the **Plaintiff / Defendant (circle one)** as follows:

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☐ Both parties are fit and proper persons to share the joint legal and physical custody of the minor child(ren), with the parent sharing the duties and

responsibilities of parenting the minor child(ren), with the child(ren) residing no less than 180 nights per calendar year in each parent's home and the parents dividing the expenses of the child(ren) in proportion to their incomes;

☐ Other: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

16. Plaintiff acknowledges that in the State of South Dakota an order for child support must be entered.

If a child support order already exists, please indicate the case number and attach a copy of it this complaint \_\_\_\_\_ **(case number)**.

*(Even if the Plaintiff is the non-custodial parent, they may still request that child support be entered.)*

17. Plaintiff requests that the **Plaintiff / Defendant (circle one)** be ordered to provide health insurance for the minor child(ren) with the uncovered medical expenses, including the premium attributable to the minor child(ren), being allocated between the parties in proportion to their incomes.

18. Plaintiff requests that the daycare expenses of the minor child(ren) be allocated between the parties. **(check one)**

Yes \_\_\_\_\_ No \_\_\_\_\_

19. The parties have accumulated property and debts during the marriage which must be equitably divided. **(check one)**

Yes \_\_\_\_\_ No \_\_\_\_\_

20. Plaintiff seeks spousal support (alimony). **(check one)**

Yes \_\_\_\_\_ No \_\_\_\_\_

**Wherefore**, Plaintiff prays for a judgment as follows:

1. For a Judgment and Decree of Divorce dissolving the marriage of the parties;
2. For an equitable division of the marital property and debts;
3. That the Plaintiff's last name be restored to: *(only if requesting)*  
\_\_\_\_\_ whose date of birth is  
\_\_\_\_\_;
4. That custody and visitation of the minor child(ren) be established as set forth above;
5. That an order for child support be established if one does not already exist;
6. That health insurance for the minor child(ren) be addressed, if requested above;
7. For alimony to be ordered, if requested above; and
8. For such other and further relief as may be equitable and just.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Plaintiff Signature

\_\_\_\_\_  
Plaintiff Name

Sworn/affirmed before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Plaintiff Address

\_\_\_\_\_  
Notary/Deputy Clerk/Clerk of Court

\_\_\_\_\_  
City, State, Zip Code

My Commission Expires:\_\_\_\_\_

\_\_\_\_\_  
Phone Number